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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,526	02/18/2004	Floyd Backes	160-055	2447

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EXAMINER

PEACHES, RANDY

ART UNIT PAPER NUMBER

2617

DATE MAILED: 09/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/781,526	Applicant(s) BACKES, FLOYD	
	Examiner Randy Peaches	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☒ Claim(s) 2 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/10/2006 has been entered.

Double Patenting

Claims 1-5 of this application conflict with ***claims 1-5*** of Application No. 10/780,594. 37 CFR 1.78(b) provides that when two or more applications filed by the same applicant contain conflicting claims, elimination of such claims from all but one application may be required in the absence of good and sufficient reason for their retention during pendency in more than one application. Applicant is required to either cancel the conflicting claims from all but one application or maintain a clear line of demarcation between the applications. See MPEP § 822. Both applications are identical in that each teach and claim the process of an access point accepting bid messages or request from mobile stations for the ease of management of communications in a wireless environment.

Claim Objections

Claim 2 is objected to because of the following informalities:

The Examiner is unable to consider the claim language, i.e. (change in) because it is unclear if it is included or not.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. ***Claims 1 and 3-5*** are rejected under 35 U.S.C. 103(a) as being unpatentable over Karaoguz et al. U.S. Patent Publication Number (2004/0054767 A1).

Regarding ***claim 1***, Karaoguz et al. discloses an apparatus for use in an access point in a wireless communications environment including multiple access points (410a-n) and wireless devices (415a-n), which reads on claimed "stations," , wherein stations gain network access by associating with one or more of the access points(see paragraph [0021]), comprising:

- logic for collecting bid messages, wherein the message include information regarding location and identity information from stations (see paragraph [0029

and 0032]), each bid message including a parameter related to the distance, see paragraph [0029], between the said access point and the said wireless device.

See paragraphs [0033 and 0041-0042];

- logic for selecting one of the bid messages based at least in part on the parameter related to distance. See paragraph [0029];
- logic for sending an range message acknowledgement (ACK), which reads on claimed "accept message,"(see paragraph [0036]) to one of the said wireless device from which a bid message was received, the accept message for causing the station to associate with the access point wherein Karaoguz et al. further discloses wherein the said wireless device further establish communication with the said access point. See paragraph [0033-0036].

The Examiner acknowledges the fact that Karaoguz et al. discloses of a said access point sending bid messages to the said wireless device. The Applicant is claiming the opposite. However, it is considered to be within the scope of one of ordinary skill in the art to shift the functionality of the process to an element within the environment in order to produce an expected result.

Therefore at the time of the invention it would have been obvious to a person of ordinary skilled in the art to modify Karaoguz et al. in order to provide a means to transmit bid messages from the said wireless device to allow the said access point to associated the said device to the said network. See also *In re Japikse*, 86 USPQ 70 (CCPA 1950).

Regarding **claim 3**, according to **claim 2**, Karaoguz et al. fails to clearly disclose wherein the said ACK message is sent only if a maximum number of said wireless device associations has not been exceeded.

However, Karaoguz does disclose of the optimization wherein it is duly interpreted that the number of permissible associations are not exceeded. See paragraph [0027, 0028 and 0045].

Therefore at the time of the invention it would have been obvious to a person of ordinary skilled in the art to modify Karaoguz et al. in order to provide a means to reduce burden on the network by reducing the number of permissible associations to the said access points.

Regarding **claim 4**, according to **claim 1**, Karaoguz et al. continues to disclose logic for maintaining a table in a central server (401), see FIGURE 4, including an entry for each said wireless device from which a bid message has been received, each entry including the parameter. See paragraph [0043].

Regarding **claim 5**, Karaoguz et al. discloses an apparatus for use in an access point in a wireless communications environment including multiple access points (410a-n) and wireless devices (415a-n), which reads on claimed "stations," , wherein stations gain network access by associating with one or more of the access points(see paragraph [0021]), comprising:

- logic for collecting bid messages, wherein the message include information regarding location and identity information from stations (see paragraph [0029 and 0032]), each bid message including a parameter related to the distance, see paragraph [0029], between the said access point and the said wireless device. See paragraphs [0033 and 0041-0042];
- logic for selecting one of the bid messages based at least in part on the parameter related to distance. See paragraph [00290];
- logic for maintaining a table in a central server (401), see FIGURE 4, including an entry for each said wireless device from which a bid message has been received, each entry including the parameter. See paragraph [0043].
- logic for sending an accept message to the station in the table having the parameter indicating the closest distance, the accept message for causing the station to associate with the access point.

However, Karaoguz et al. fails to clearly disclose wherein sending an accept message to the station in the table having the parameter indicating the closest distance.

Consequently, Karaoguz et al. does teach of network optimization, see paragraph [0027-0028 and 0045], wherein it is implicit that the closest said device is selected for the association in order for the network to operate effectively.

Therefore at the time of the invention it would have been obvious to a person of ordinary skilled in the art to modify Karaoguz et al. in order for the said ACK message be sent to the said device having the parameter indicating the closest distance.

2. **Claim 2** is rejected under 35 U.S.C. 103(a) as being unpatentable over Karaoguz et al. U.S. Patent Publication Number (2004/0054767 A1) in view of Kashitani et al. U.S. Patent Number 6,266,537).

Regarding **claim 2**, according to **claim 1**, Karaoguz et al. discloses an apparatus for use in an access point in a wireless communications environment including multiple access points (410a-n) and wireless devices (415a-n). However, Karaoguz et al. fails to clearly disclose wherein the logic for sending an accept message sends an accept message to the station whose bid message included the parameter indicating the largest change in distance.

Kashitani et al. discloses a method for associating stations when the said parameter received indicates the largest distance change. See Kashitani et al column 7 lines 23-32 and column 8 lines 58-67.

Therefore at the time of the invention it would have been obvious to a person of ordinary skilled in the art to modify Karaoguz et al. in view of Kashitani et al. in order to reduce interference and increase reliability for wireless transmission.

Response to Arguments

Applicant's arguments with respect to **claims 1-5** have been considered but are moot in view of the new ground(s) of rejection.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Randy Peaches whose telephone number is (571) 272-7914. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph H. Feild can be reached on (571) 272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Randy Peaches
September 15, 2006



CHARLES APPIAH
PRIMARY EXAMINER